IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE A.K.BASHEER

WEDNESDAY, THE 5TH SEPTEMBER 2007 / 14TH BHADRA 1929

WA.No. 2290 of 2004()

AGAINST THE JUDGEMENT IN WPC.33892/2004 Dated 23/11/2004
.....

APPELLANT: PETITIONER:
---

1. DR. O.S. ARUN, SEROLOGICAL ASSISTANT
REGIONAL CHEMICAL EXAMINATION LABORATORY,
ERNAKULAM.

2. DR. S.P. SHAJI PRABHA,
SEROLOGICAL ASSISTANT, CHEMICAL
EXAMINATION LABORATORY, THIRUVANANTHAPURAM.

BY ADV. DR.K.P.SATHEESAN
SRI.K.K.GOPINATHAN NAIR
SRI.M.R.JAYAPRASAD
SRI.K.K.RAJEEV
SRI.T.K.KAMALJITH

RESPONDENTS:
---

1. STATE OF KERALA, REP. BY THE
ADDL.CHIEF SECRETARY TO GOVERNMENT,
HOME (C) DEPARTMENT, GOVT.SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE CHIEF CHEMICAL EXAMINER,
CHEMICAL EXAMINERS LABORATORY,
THIRUVANANTHAPURAM-695 035.

3. M.P. MOHAMMED ALI, JUNIOR
SCIENTIFIC OFFICER, REGIONAL CHEMICAL
EXAMINATION LABORATORY, KOZHIKODE.

4. P. RAVEENDRAN, JUNIOR SCIENTIFIC
OFFICER, CHEMICAL EXAMINATION LABORATORY,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SRI.K.SANDESH RAJ

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD
ON 05/09/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.S.RADHAKRISHNAN & A.K.BASHEER, JJ

W.A.2290/2004

Dated this the 5th day of September, 2007

JUDGMENT

Radhakrishnan, J

Writ petition was preferred by the appellants herein seeking a writ of certiorari to quash Ext.P7 order and also for a writ of mandamus directing the second respondent to promote the petitioners as Junior Scientific Officers in preference to any Technical Assistant in the Department and also for other consequential reliefs.

2. Special Rules as it stood earlier stated that the post of Junior Scientific Officer be filled up by promotion from the category of Serological Assistant and in the absence of a suitable candidate in that category from the category of Technical Assistant. Special Rules was late amended and the Serological Assistant was excluded from the Feeder Category for a promotion to the post of Junior Scientific Officer. On the basis of Special Rules, Ext.P7 order dated 29.10.2004 was issued by the Chief Chemical Examiner promoting respondents 3 and 4 to the post of Junior Scientific Officer which is under challenge in this writ petition.

3. Facts would clearly indicate that the respondents 3 and 4 were admittedly working as Technical Assistants. Since Serological Assistant is not included in the Feeder category as per the Special Rules, Chief Chemical Examiner has rightly promoted respondents 3 and 4 who were Technical Assistants included in the Feeder category.

4. That being the situation, there is no illegality in Ext.P7 order issued by the Chief Chemical Examiner by promoting respondents 3 and 4 to the post of Junior Scientific Officer. Learned Single Judge has therefore, rightly dismissed the writ petition. Unless the post of serological Assistant is also included in the Feeder Category, petitioner cannot raise any claim for promotion to the post of Junior Scientific Officer. It is for the Rule Making authority to decide. Appeal lacks merit and the same is dismissed.

K.S.RADHAKRISHNAN
Judge

A.K.BASHEER
Judge

mrcs